

House Bill 1419

By: Representatives Keown of the 173rd, Lane of the 167th, Tumlin of the 38th, Willard of the 49th, Thomas of the 55th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, so as to provide that a patient shall receive notice of an investigation, proceeding, or hearing held regarding a patient's complaint and be given an opportunity to participate in the proceedings and provide oral or written testimony to the board considering the complaint; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, is amended in Code Section 43-34-37, relating to the authority of the Board of Medical Examiners to refuse a license or to discipline physicians and enforcement of investigations, by adding a new subsection immediately following subsection (j) to read as follows:

"(k) In all disciplinary investigations and actions taken by the board in which a complaint was made against an applicant or licensee, the board shall provide notice of the proceedings to the applicant or licensee and any patient whose care is the subject of the complaint or such patient's authorized representative. The notice shall provide the applicant or licensee and patient, or patient's authorized representative, an opportunity to provide oral or written testimony to the board. Testimony provided by an applicant, licensee, patient, or patient's authorized representative must be considered by the board and noted in the records of the proceedings."

SECTION 2.

Said article is further amended by striking Code Section 43-34-38, relative to disciplinary proceedings, in its entirety and inserting a new Code Section 43-34-38 to read as follows:

1 "43-34-38.

2 (a) Proceedings before the board wherein a licensee's right to practice medicine in this
3 state is terminated, suspended, or limited or wherein a public reprimand is administered
4 shall require prior notice to the licensee and an opportunity for hearing; and such
5 proceedings shall be considered contested cases within the meaning of Chapter 13 of Title
6 50, the 'Georgia Administrative Procedure Act.' Prior notice of the hearing shall also be
7 provided to any patient, or the patient's authorized representative, whose care by the
8 licensee is in any manner at issue in the proceedings. The hearing shall be open to
9 participation by any such patient, or the patient's authorized representative. Patient
10 participation shall include an opportunity for the patient to provide oral or written
11 testimony.

12 (b) Neither refusal of a license nor a private reprimand shall be considered a contested case
13 within the meaning of Chapter 13 of Title 50, and notice and hearing within the meaning
14 of such chapter shall not be required; but the applicant physician shall be allowed to appear
15 before the board if he or she so requests. If a physician is given an opportunity to appear
16 before the board, then any patient whose care is the subject of the proceedings, or the
17 patient's authorized representative, shall be notified of such appearance and the patient
18 shall be provided an opportunity to participate in the proceedings. Patient participation
19 shall include an opportunity for the patient to provide oral or written testimony.

20 (c) The power to subpoena as set forth in Chapter 13 of Title 50 shall include the power
21 to subpoena any book, writing, paper, or document.

22 (d) If any licensee fails to appear at any hearing after reasonable notice, the board may
23 proceed to hear the evidence against such licensee and take action as if such licensee had
24 been present."

25 **SECTION 3.**

26 This Act shall become effective on July 1, 2006.

27 **SECTION 4.**

28 All laws and parts of laws in conflict with this Act are repealed.